

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

v.

ROBERT LABARON JOHNSON

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CRIMINAL NO. 1:04cr74 LG - 2

**ORDER DENYING MOTIONS FOR RETROACTIVE
APPLICATION OF SENTENCING GUIDELINES AND
FOR APPOINTMENT OF COUNSEL**

BEFORE THE COURT are the Defendant's pro se Motion for Retroactive Application of Sentencing Guidelines to Crack Cocaine Offense pursuant to 18 U.S.C. § 3582 [125] and to Appoint Counsel [129] to assist him in the Sentencing Guideline motion. There has been no response to either motion filed by the government.

Johnson pled guilty to possession with intent to distribute a controlled substance and was held accountable for 107.9 net grams of cocaine base, resulting in a base offense of 32. No specific offense characteristics were applied and he was granted a three level reduction, from 32 to 29, for acceptance of responsibility. Johnson's criminal history category was III, making the applicable guideline imprisonment range 108 to 135 months. However, Johnson was subject to a 10-year mandatory minimum sentence, making the minimum sentence 120 months imprisonment. This was the sentence Johnson received. He is not eligible for any further reduction and his motion will be denied. Furthermore, as it is clear from the record that Johnson is not entitled to the relief requested, his motion for appointed counsel will be denied.

IT IS THEREFORE ORDERED AND ADJUDGED that the Defendant's pro se Motion [125] for Retroactive Application of Sentencing Guidelines to Crack Cocaine Offense pursuant to 18 U.S.C. § 3582 is **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that the Defendant's pro se Motion to Appoint Counsel [129] is **DENIED**.

SO ORDERED AND ADJUDGED this the 22nd day of October, 2009.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE